

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JOHNNY RAY HUNLEY, JR.,

Plaintiff,

v.

NICOLE PARR, et al.

Defendants.

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ORDER

Case No. 24-cv-22-wmc

On January 17, 2024, I entered an order assessing plaintiff Johnny Ray Hunley, Jr. an initial partial payment of \$1.90 in this case. Now plaintiff has filed a request to defer or forgive the initial partial filing fee, which I construe as a motion to waive the initial partial filing fee. Dkt. 5. I will deny the motion without prejudice for the following reasons:

In 28 U.S.C. § 1915(b)(1), Congress established a formula to determine the filing fee for a federal civil action or appeal by a prisoner seeking leave to proceed *in forma pauperis*. The statute says, “The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of — (A) the average monthly deposits to the prisoner’s account; or (B) the average monthly balance in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.”

In calculating the initial partial payment in this case, I used the trust fund account statement that plaintiff submitted on January 16, 2024. I determined that his average monthly balance was \$9.52. Twenty percent of \$9.52 is \$1.90. I will deny the motion to waive the initial partial filing fee without prejudice, and I will give plaintiff an extension of time until March 13, 2024, to submit the \$1.90 initial partial payment.

ORDER

IT IS ORDERED that:

1. Plaintiff Johnny Ray Hunley, Jr.'s motion to waive the initial partial filing fee is DENIED without prejudice.

2. Plaintiff may have an extension of time until March 13, 2024, to submit a check or money order payable to the clerk of court in the amount of \$1.90, or to submit an updated inmate account statement or other documentation that shows how his financial situation has changed.

3. If plaintiff fails to make the initial partial payment by March 13, 2024, or fails to show cause why the payment could not be made, then I will assume that plaintiff wishes to withdraw this case voluntarily. In that event, the case will be dismissed without prejudice to plaintiff refiling at a later date.

Entered this 13th day of February, 2024.

BY THE COURT:

/s/

ANDREW R. WISEMAN  
United States Magistrate Judge